IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION.

WRIT PETITION NO. 1421 OF 2002

Shivajirao Dhondopant Katale ..... Petitioner.

versus

The State of Maharashtra
and another ..... Respondents.

.....

Shri Shirish Gupte with Shri M.D.Buch & Shri S.K.More for the petitioner.
Shri I.S.Thakur APP for State.

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CORAM ; V.G.PALSHIKAR &
ANOOP V. MOHTA, JJ.

DATED; 6TH SEPTEMBER, 2004.

JUDGMENT (Per Palshikar J.);

1. By this petition, the petitioner seeks quashing of the order dated 19-9-2002, rejecting the application of the petitioner for grant of Arm licence under section 18 of the Arms Act 1959.

2. Facts giving rise to the petition stated briefly are that the petitioner was holder of valid licence under which he possessed a revolver. The licence was subsisting, when a friend of his handled the gun with fire resulted in the death of a person. The petitioner was therefore prosecuted for causiong death by rash and

negligent act. This gun naturally was seized. The gun was then returned to the petitioner for fulfilling the conditions of renewal of licence. However no renewal was granted and the second respondent by his order dated 22-2-1993 revoked the licence of the petitioner under section 17(3)(b) of the Arms Act. Thereupon the petitioner surrendered his gun as required by the order and preferred an appeal as provided by the Act. The appeal was rejected by the impugned order. Hence this petition.

3. The trial of the petitioner under section 304-A of the IPC resulted in acquittal of the petitioner in which it was held that the petitioner was not negligent in handling the weapon, and therefore was acquitted. However the reason given for cancellation of his licence is that, a death has occured by that weapon and therefore petitioner does not deserve to be a licensor. The only reason given for cancellation of licence is the fact that the death has occured because of the gun, when the petitioner was not found guilty of negligence, nor was there any evidence to show that he was in any manner negligent in the matter of handling and procuring the gun. The reason given for cancellation of licence is therefore obviously unsustainable. The acquittal of the petitioner under section 304-A IPC

with the observation that he was not negligent in handling of the arm was correct and that the petitioner was not in any manner negligent. In the result, therefore, the petition succeeds and allowed and the impugned order is set aside. The concerned officer of the police would consider afresh the application of the petitioner for renewal/grant of fresh licence in the light of the above observations. Rule made absolute in above terms.

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GPN-J-332-ARHCB-8_94-13,10,500-ALA4.
SPL.H.C.A.S.C.D. 79e.

FARAD CONTINUATION SHEET NO.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE.

CRIMINAL WRIT PETITION NO. 1421 OF 2002

Office Notes, Office Memorada orders or directions and Registrar‘s orders.	Court‘s or Judge‘s Orders.

Shri Shirish Gupte with Shri M.D.Buch &
Shri S.K.More for the petitioner.
Shri I.S.Thakur APP for State.

CORAM ; V.G.PALSHIKAR &
ANOOP V. MOHTA, JJ.

DATED; 6th SEPT, 2004.

For reasons separately recorded the court has passed the following order.

The petition succeeds and is allowed. The impugned order is set aside. The concerned officer of the police would consider afresh the application of the petitioner for renewal/grant of fresh licence in the light of the above observations. Rule made absolute in above terms.

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